

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-012376

08/20/2024

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
A. Walker
Deputy

BEARDSLEY HOLDINGS INC, et al.

DANIEL P BEEKS

v.

COLONY BILTMORE-GREENS
HOMEOWNERS ASSOCIATION INC, et al.

JOHN T CROTTY

JUDGE HANNAH

MINUTE ENTRY

East Court Building – Courtroom 811

8:43 a.m. This is the time set for a virtual Rule 16 Conference. Plaintiffs, Beardsley Holdings, Inc. and INBS, Inc., are represented by counsel, Daniel P. Beeks. Defendant, Colony Biltmore-Greens Homeowners Association, Inc., is neither present nor represented by counsel, John T. Crotty. All parties appear virtually.

A record of the proceedings is made digitally in lieu of a court reporter.

LET THE RECORD REFLECT John T. Crotty, counsel for defendant, is not present and the Court was unable to reach him for this conference.

Discussion is held regarding the Scheduling Order submitted by the parties.

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Counsel requests that the mediation deadline be extended to January 15, 2025.

IT IS ORDERED counsel's request to extend the mediation deadline is granted.

For the reasons as stated on the record,

IT IS ORDERED approving/granting Amended Scheduling Order, all in accordance with the formal written Scheduling Order signed by the Court August 19, 2024, and filed (entered) by the Clerk August 20, 2024.

Please note: The court has signed a paper copy of the order which was originally provided electronically. After the order has been scanned and docketed by the Clerk of Court, copies of this order will be available through the ECR online at www.clerkofcourt.maricopa.gov or through www.AZTurboCourt.gov and from the Public Access Terminals at the Clerk of Court's offices located throughout Maricopa County.

IT IS FURTHER ORDERED setting a **Telephonic Trial Scheduling Conference** for the purpose of assigning a trial date on **January 28, 2025 at 8:45 a.m. (time allotted: 15 minutes)** in this division, before:

HONORABLE JUDGE JOHN HANNAH
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
8TH FLOOR, COURTROOM 811
PHOENIX, AZ 85003
602-372-0759

Counsel/parties shall have their trial calendars available for the conference.

The Court is utilizing a virtual platform called Court Connect for online hearings. An auto-generated e-mail with a link to the online "courtroom" has been sent to local counsel of record, who should forward it to co-counsel, clients or client representatives, and others who will participate in the hearing. You may forward the link to anyone who wants to attend the hearing, but please advise the Court if you expect more than a few spectators so that we can make any technical adjustments that may be necessary. If for some reason you did not receive the e-mail, please advise the Court. The hearing may also be joined using the following link: tinyurl.com/jbazmc-cvj07; or appearances may be made by telephone, by calling 1-917-781-

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4590, conference ID 759-563-74#. For further information, please visit: <https://superiorcourt.maricopa.gov/court-connect/>

The physical courtroom (Courtroom 811, East Court Building, 101 W, Jefferson, Phoenix, AZ) is open and accessible for most hearings. Attorneys and parties may choose to appear in person; and spectators are always welcome in the courtroom at public hearings. If an in-person appearance at a scheduled online hearing is anticipated, we ask as a courtesy that you let us know in advance (and at the same time notify the opposing party or parties) so we can ensure that the appearance is accommodated.

8:46 a.m. Matter concludes.

PRETRIAL ORDERS

The Court having been assigned to this case, the parties shall make note of the pretrial orders set out herein. The Court makes every effort to ensure that all orders entered in the case are consistent with these orders. If a party becomes aware that an inconsistent order has been entered in this case, it is that party's responsibility to request clarification as necessary.

Discovery Disputes:

A request for order compelling disclosure or discovery (Civil Rule 37(a)) or for a protective order (Civil Rule 26(c)) must be presented to the Court through the expedited procedure set out in Civil Rule 26(d). Requests for Rule 37 sanctions other than payment of expenses pursuant to Rule 37(a)(5) must be presented by motion, not the expedited Rule 26(d) procedure.

The parties must attempt first to resolve discovery disputes through good-faith personal consultation. A letter or email to the opposing attorney threatening to file a discovery motion if he or she does not respond, without more, does not satisfy the consultation requirement under the rules. If consultation does not resolve the dispute, the parties having the dispute shall email the Judicial Assistant a three-page summary of the dispute pursuant to Rule 26(d)(2), with each side entitled to submit one and one-half pages of that text, and a good faith consultation certificate. No exhibits shall be included with the summaries. Division staff will contact the attorneys if the Court determines, after reviewing the summary, that the parties should submit additional documents,

The judge may decide the issue on the papers, set a telephonic conference, or order full briefing. If the judge decides that a telephonic conference is appropriate, the Judicial Assistant will contact the parties by email or telephone to schedule the conference with the judge. When the dispute has been resolved, the email communications and the written summary will be filed with the Clerk as necessary to make a record.

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Motion Practice Generally:

If you choose to combine the memoranda associated with different motions in a single filing, the page limits in Civil Rule 7.1 nevertheless apply to that filing. For example, a “response and cross-motion” is limited to 17 pages, not 17 for the response plus another 17 for the cross-motion totaling 34 pages. All citations must be included in the body of the brief and not in footnotes.

All stipulations and unopposed motions, and motions asking to set or continue a hearing or a deadline, must be accompanied by a proposed order. Litigants are strongly encouraged to submit proposed orders with *all* routine motions. A proposed order/judgment must be attached as a Word document (abcd.docx), using the proper Turbo Court code. If your system is not allowing you to attach a Word order, please email a copy to the Judicial Assistant so he or she can attach it on our end.

Motions ordinarily will be held for the period provided by the rules for the opposing party’s response. A request in the caption or the body of a motion for “expedited ruling” or “expedited consideration” of that motion will be honored only if the motion expressly states that opposing counsel or unrepresented opposing parties have been consulted and do not oppose the relief requested. Otherwise, a request for expedited briefing or ruling must be presented in a separate motion with a proposed form of order, served on the opposing party by the most expeditious method permitted by the rules, and delivered to the Division by email or hand delivery.

A party that has agreed with the opposing party or parties to extend the time for filing a response or reply memorandum must file notice as required by Civil Rule 7.1(g)(2). In the absence of notice, the Court might issue a ruling upon expiration of the deadlines provided in the rules. If that happens, motions for reconsideration will be disfavored.

Oral argument time generally will be divided equally between the plaintiffs’ side and the defendants’ side, subject to modification when the positions of the parties are not aligned or when equity otherwise requires.

Dispositive Motions:

In most cases the scheduling order will establish a date-certain dispositive motion deadline. If no date-certain deadline has been set, dispositive motions must be filed 120 days before the Final Trial Management Conference or (if no Final Trial Management Conference is scheduled) 120 days before trial. The Court will reject a stipulated extension of the dispositive motion deadline

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that places the deadline fewer than 120 days before the Final Trial Management Conference, absent an explanation of why an earlier deadline is impractical in the circumstances.

The dispositive motion deadline is not automatically extended for cross-motions. Cross-motions for summary judgment filed after the deadline may be summarily denied in the Court's discretion, particularly if it appears that the filing party delayed for tactical advantage.

Each party is limited to **one dispositive motion on a particular issue or topic**, unless the Court orders otherwise for good cause shown. The Court in its discretion may summarily deny a summary judgment motion directed to an issue that was raised and decided on a Rule 12(b)(6) motion or an earlier summary judgment motion.

Daubert Motions:

A motion for a *Daubert* hearing or other hearing on the admissibility of an expert's testimony under Ariz.R.Evid. 702, must be filed no later than the dispositive motion deadline. Failure to file such a motion in a timely manner may be deemed a waiver of (1) any objection that the expert is not qualified to render expert testimony, and/or (2) any objection that any opinion of the expert should be excluded under Ariz.R.Evid. 702.

Motions in Limine:

Motions *in limine* are usually addressed at the Final Trial Management Conference. The Court will entertain a request for an early ruling on a motion *in limine*, however, if such a ruling will facilitate settlement or trial preparation.

Miscellaneous Issues:

All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for up to three hours and \$280 for any hearing in excess of three hours, not including preparation of transcripts. If no court-employed court reporter is available, the parties will be notified and given an opportunity to bring in a private court reporter on the terms and conditions set out in Supreme Court Rule 30(b)(3).

Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$30.00 charge. If a CD is requested, please obtain a form from the

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Self Service Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee **at the Self Service Center**. Attach the receipt showing payment of the fee and present both the receipt and the form to the bailiff. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.**

Requests for interpreters must be made at least ten business days in advance of the hearing date for which the interpreter is needed.

Pursuant to Arizona Supreme Court Administrative Order, trials and evidentiary hearings are presumptively presented in person in the courtroom, not by videoconference. If you intend to present a witness or witnesses by live videoconference, you must notify the Court and opposing counsel far enough in advance to allow time for objections to be heard and to ensure that the courtroom will be set up for the presentation. **The Court may exercise its discretion to deny requests for videoconference testimony made for the first time on the day of the hearing.**

If you anticipate using this Division's courtroom technology but are not familiar with it, please make an appointment at with this division's courtroom assistant, Tomi Polvorosa, via email at tomi.polvorosa@jbazmc.maricopa.gov, to familiarize yourself with the equipment and make sure that you are able to connect to it with your own electronic devices.

Preferred communication with this Division is via email to the **Judicial Assistant, Gail Cody, at gail.cody@jbazmc.maricopa.gov**. We are able to respond much quicker to an email. **All email communications with the Judicial Assistant, except authorized *ex parte* communications, must be copied to all attorneys and self-represented parties in the case even if they have no involvement with or interest in the subject of the communication.**

This Division is using Case Center, a statewide exhibit portal. All exhibits must be submitted through Case Center. Inquiries regarding exhibit procedures should be directed to this Division's courtroom clerk at **(602) 506-1375**.